

SOUTH DAKOTA DEPARTMENT OF HEALTH  
BOARD OF NURSING FACILITY ADMINISTRATORS

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IN THE MATTER OF THE	)	DOH 18-16
LICENSURE OF DANIEL MARK	)	
GUERICKE	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	

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The above-captioned matter having come for hearing before the Board of Nursing Facility Administrators (Board) on December 10, 2018, pursuant to the Notice of Contested Case Hearing dated October 31, 2018, and the applicant, Daniel Mark Guericke, appearing personally and represented by legal counsel, Michael J. Butler, and Catherine S. Williamson, Administrative Law Judge, presiding, and the Board having heard the testimony and considered the evidence, makes and enters Findings of Fact and Conclusions of Law as follow:

FINDINGS OF FACT

1. Mr. Guericke received an emergency permit to act as a Nursing Facility Administrator for 180 days on December 19, 2017, pursuant to SDCL 36-28-13 and ARSD 20:49:05:01. That emergency permit was extended for an additional 180 days pursuant to ARSD 20:49:05:02. Mr. Guericke's emergency permit will expire on December 19, 2018.
2. Mr. Guericke applied for a Nursing Facility Administrator's license on December 27, 2017.

3. As a part of his application for licensure, Mr. Guericke self-disclosed that he had criminal charges pending for Falsification of Evidence and Conspiracy to Offer Forged or Fraudulent Evidence.
4. The Board informed Mr. Guericke on or about June 26, 2018, that it would postpone taking action on his licensure application until the pending criminal matter was resolved.
5. Mr. Guericke pled guilty to one count of Falsification of Evidence on September 28, 2018.
6. Mr. Guericke received a Suspended Imposition of Sentence on November 26, 2018. On November 28, 2018, the trial court dismissed and discharged the Suspended Imposition of Sentence and sealed Mr. Guericke's criminal file.
7. Mr. Guericke appeared personally before the Board on December 10, 2018, with counsel, Michael J. Butler.
8. Mr. Guericke testified that recreating contracts for his previous employer, which resulted in the criminal charges against him, was not done to deceive or defraud. And he did not realize at the time that what he had done was illegal. He testified that he regretted his actions and would take greater care with regard to future contracts.
9. Mr. Guericke had two other witnesses testify on his behalf: Chris Dodds, President of the Board of Directors of Aurora Brule Care and Rehabilitation, Mr. Guericke's current employer, and Chad Stroschein, Mr. Guericke's Preceptor. Both witnesses testified that Mr. Guericke was exceeding

expectations as the Administrator for Aurora Brule Care and Rehabilitation, and they hoped he could remain in that position.

### CONCLUSIONS OF LAW

1. The Board has personal and subject matter jurisdiction. This matter is properly before the Board for a decision.
2. Any Conclusion of Law deemed to be a Finding of Fact or vice versa shall be appropriately incorporated into the Findings of Fact or Conclusions of Law as applicable.
3. The Board is tasked with the responsibility of establishing qualifications to determine whether an individual is qualified to be licensed as a Nursing Facility Administrator pursuant to SDCL Ch. 36-28 *et seq* and ARSD Article 20:49 *et seq*.
4. Qualifications for licensure as a Nursing Facility Administrator are established in SDCL § 36-28-12 and 36-28-12.1 as well as ARSD Chs. 20:49:04 and 20:49:15.
5. Pursuant to ARSD 20:49:04:03, the Board *may* refuse to issue a license to any applicant who has been convicted, pled no contest, nolo contendere, pled guilty to, or been granted a deferred judgment or suspended imposition of sentence, or had prosecution deferred with respect to a felony. (emphasis added).

6. Unprofessional conduct has been defined in ARSD 20:49:15:02 and includes falsifying records submitted to the Board, to the state department of health, or to any other government agency.
7. After hearing the testimony and reviewing the evidence submitted during the hearing, the Board finds Mr. Guericke qualified for licensure as a Nursing Facility Administrator in South Dakota pursuant to the above referenced statutes and administrative rules.
8. An order shall be entered granting Mr. Guericke's application for licensure as a Nursing Facility Administrator in South Dakota.

Dated this \_\_\_\_ day of December, 2018.

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Robert Stahl  
President  
Board of Nursing Facility Administrators

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IN THE MATTER OF THE	)	DOH 18-16
LICENSURE OF DANIEL MARK	)	
GUERICKE	)	ORDER GRANTING APPLICATION
	)	
	)	

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The above-captioned matter having come for hearing before the Board of Nursing Facility Administrators on December 10, 2018, and the Board having considered the evidence and heard the testimony, and having entered Findings of Fact and Conclusions of Law, and for good cause it is hereby,

ORDERED that the application of Daniel Mark Guericke for licensure as a Nursing Facility Administrator be granted.

Dated this \_\_\_\_ day of December, 2018.

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Robert Stahl  
President  
Board of Nursing Facility Administrators